




# TOWN OF FAIRFAX

## STAFF REPORT

### September 5, 2018

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager 

**SUBJECT:** Introduction and first reading by title only of an Ordinance Amending Chapter 3.36 ("Public Bidding") of the Fairfax Town Code to Increase Contract Award Limits per the Uniform Public Construction Cost Accounting Act; categorically exempt from CEQA

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#### **RECOMMENDATION**

Introduce and waive first reading and read by title only An Ordinance of the Town Council of the Town of Fairfax Amending Chapter 3.36 ("Public Bidding") of the Fairfax Town Code to Increase Contract Award Limits per the Uniform Public Construction Cost Accounting Act.

#### **DISCUSSION**

In 1995, the Town Council adopted an ordinance (Municipal Code Chapter 3.36) making the Town subject to the uniform construction cost accounting procedures set forth in the Uniform Public Construction Cost Accounting Act (UPCCAA), Cal. Public Contract Code §§ 22000 *et seq.* The UPCCAA governs the public bidding process and requirements.

In 2015, the Town amended the Chapter to reflect increases in the UPCCAA's contractual limits over the past 20 years. The last UPCCAA increase was in 2011. The UPCCAA limits will again be changing effective January 1, 2019.

The specific changes to the UPCCAA contract limits are as follows:

- (A) Increases the limit from \$45,000 to \$60,000 or less for those public projects which may be performed by employees (i.e., force account) or by negotiated contract.

Existing Town Code- The current Town limit is \$45,000 or less. An increase in the limit would save the Town both time and money as construction costs have increased over time. This revision provides greater flexibility for staff to perform work in house and also allows the Town to obtain better pricing for public works projects under \$60,000.

Preparing bid packages (i.e., plans and specifications) for both informal and formal bidding can be very time consuming and costly for smaller projects. Some contractors will not submit a bid for a smaller project because they deem the requirements too onerous. Approval of contracts by the Town Manager remains subject to the Council's administrative purchasing policy adopted by Town resolution.

- (B) Increases the limit from \$175,00 to \$200,000 or less for those public projects that may be let to contract by informal bidding procedures.

Existing Town Code- The current Town limit is \$100,000 or less. The primary difference between informal and formal bidding is the advertising requirement. The informal bid process allows a notice submitted to the informal contractors' bid list and/or UPCCAA designated construction trade journals 10 days prior to the bid due date. The formal bid process requires a notice to be published 14 days prior to the bid opening date. The Town also sends the bid package to the construction trade journals.

While the Town has not tried the informal bid process, the plans and specifications are, in essence, the same for the informal and formal bid processes. The Town Council must also award to the lowest, responsible bidder in both cases.

That being said, staff recommends the Town adopt the revisions so that the Town ordinance remains consistent with UPCCAA. With the increased informal bid limits, staff would try the informal bidding process to evaluate if there are any differences in the costs of the bids submitted. The Town would save on advertising costs and, perhaps, could award contracts slightly quicker.

In addition, we have changed the requirement that the Town "shall" to "may" maintain a list of qualified contractors for informal bidding per UPCCAA. Staff has had difficulty establishing and maintaining such lists due to the lack of interest of contractors. As mentioned above, the informal bidding process allows us to just send the notice to the construction trade journals which is similar to the formal bid process.

- (C) Increases the limit from \$175,000 to more than \$200,000 for those public projects required to be let to contract by formal bidding procedures.

Existing Town Code- The current Town limit is public projects of more than \$100,000. Increasing the limit may provide some benefits to the Town as described above.

These changes would take effect January 1, 2019 pursuant to State law.

## **ATTACHMENTS**

- A. Redline of Town Code Chapter 3.36
- B. Proposed Ordinance

## REDLINE OF CHAPTER 3.36 PUBLIC BIDDING

### § 3.36.010 ADOPTION OF CALIFORNIA UNIFORM CONSTRUCTION ACCOUNTING PROCEDURES.

The Town Council does elect to become subject to the uniform construction cost accounting procedures set forth in the Uniform Public Construction Cost Accounting Act, Cal. Public Contract Code §§ 22000 *et seq.*, except as otherwise provided herein. The terms referred to herein shall have the meanings ascribed to them in the Uniform Public Construction Cost Accounting Act.

(Prior Code, § 3.36.010) (Ord. 644, passed - -1995; Am. Ord. 795, passed 10-7-2015)

### § 3.36.020 AWARD OF CONTRACT.

(A) Public projects of \$~~60~~45,000 or less may be performed by the employees of the town by force account or by negotiated contract or purchase order awarded by the Town Manager. The approval of contracts by the Town Manager is subject to the town's administrative purchasing policies adopted by Council Resolution 13-30.

(B) Public projects of \$~~2~~400,000 or less may be let to contract by informal procedures as set forth in this chapter.

(C) Public projects of more than \$~~2~~400,000 shall, except as otherwise provided in the Uniform Public Construction Cost Accounting Act, be let to contract by formal bidding procedures.

(Prior Code, § 3.36.020) (Ord. 644, passed - -1995; Am. Ord. 795, passed 10-7-2015)

### § 3.36.030 AUTHORITY TO AWARD INFORMAL CONTRACTS.

The Town Council does delegate to the Town Manager the authority to solicit and receive bids for informal contracts in accordance with this chapter and the Uniform Public Construction Cost Accounting Act; provided, however, that, the award of any such contracts shall be made by the Town Council.

(Prior Code, § 3.36.030) (Ord. 644, passed - -1995)

### § 3.36.040 MAINTENANCE AND USE OF LIST OF QUALIFIED CONTRACTORS.

The Town Manager ~~may~~ shall maintain a list of qualified contractors identified according to categories of work. The list shall be developed and maintained in accordance with the criteria determined by the California Uniform Construction Cost Accounting Commission.

(Prior Code, § 3.36.040) (Ord. 644, passed - -1995)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX  
AMENDING CHAPTER 3.36 (“PUBLIC BIDDING”) OF THE FAIRFAX TOWN CODE  
TO INCREASE CONTRACT AWARD LIMITS  
PER THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT**

**WHEREAS**, pursuant to Chapter 3.36 of Town Code, the Town of Fairfax has elected to become subject to the uniform construction cost accounting procedures set forth in the Uniform Public Construction Cost Accounting Act, Cal. Public Contract Code §§ 22000 et seq.; and

**WHEREAS**, the informal bid limits prescribed by Section 22032 of the California Public Contract Code will increase on January 1, 2019; and

**WHEREAS**, this Ordinance is intended to maintain consistency between Town Code Chapter 3.36 and the Uniform Public Construction Cost Accounting Act;

**NOW, THEREFORE**, the Town Council of the Town of Fairfax does ordain as follows:

**SECTION 1:** Fairfax Town Code, Section 3.36.020, shall be revised to read as follows:

**§ 3.36.010 ADOPTION OF CALIFORNIA UNIFORM CONSTRUCTION ACCOUNTING PROCEDURES.**

The Town Council does elect to become subject to the uniform construction cost accounting procedures set forth in the Uniform Public Construction Cost Accounting Act, Cal. Public Contract Code §§ 22000 *et seq.*, except as otherwise provided herein. The terms referred to herein shall have the meanings ascribed to them in the Uniform Public Construction Cost Accounting Act.

**“§ 3.36.020 AWARD OF CONTRACT.**

(A) Public projects of \$60,000 or less may be performed by the employees of the town by force account or by negotiated contract or purchase order awarded by the Town Manager. The approval of contracts by the Town Manager is subject to the Town’s administrative purchasing policies adopted by Council Resolution 13-30.

(B) Public projects of \$200,000 or less may be let to contract by informal procedures as set forth in this chapter.

(C) Public projects of more than \$200,000 shall, except as otherwise provided in the Uniform Public Construction Cost Accounting Act, be let to contract by formal bidding procedures.

**SECTION 2:** Fairfax Town Code, Section 3.36.040, shall be revised to read as follows:

**“§ 3.36.040 MAINTENANCE AND USE OF LIST OF QUALIFIED CONTRACTORS.**

The Town Manager may maintain a list of qualified contractors identified according to categories of work. The list shall be developed and maintained in accordance with the criteria determined by the California Uniform Construction Cost Accounting Commission.”

**SECTION 3:** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The Town Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

**SECTION 4: CEQA.** Pursuant to 14 California Code of Regulations § 15061(b)(3), this Ordinance is categorically exempt from the California Environmental Quality Act because the Town Council of the Town of Fairfax finds that there is no possibility that the implementation of this Ordinance will have significant effects on the environment.

**SECTION 5:** This Ordinance shall be effective January 1, 2019. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club building.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 5th day of September 2018, and duly adopted at the next regular meeting of the Town Council on the \_\_\_ day of \_\_\_\_\_ 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Peter Lacques, Mayor

Attest:

\_\_\_\_\_  
Michele Gardner, Town Clerk

\_\_\_\_\_  
Date